

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

LEVITON MANUFACTURING CO., INC.,

Plaintiff,

v.

ZHEJIANG DONGZHENG ELECTRICAL CO.,  
HARBOR FREIGHT TOOLS USA, INC.,  
NICOR INC. d/b/a NICOR LIGHTING &  
FANS, CENTRAL PURCHASING, LLC,

Defendants.

CIV. NO. 05-0301-JB/DJS

**AGREED MOTION TO VACATE MARKMAN RULING**

Plaintiff, Leviton Manufacturing Co., Inc. and defendants, Zhejiang Dongzheng Electrical Co., n/k/a General Protecht Group, Inc., Nicor, Inc. d/b/a Nicor Lighting & Fans, Harbor Freight Tools USA, Inc. and Central Purchasing, LLC, hereby jointly move this Court for an Order vacating the Markman Opinion and Order issued in Civil Action No. 05-0301-JB/DJS, *i.e.*, the Court's Memorandum Opinion and Order dated March 5, 2007. The parties have reached a final settlement of all claims and counterclaims in the subject litigation in the form of a duly executed Confidential Settlement Agreement. As part of the settlement, the parties have agreed to request that the Court vacate its March 5, 2007 Markman ruling.

A proposed form of Order is attached for the Court's convenience.

Dated: November 20, 2007

By: /s/ Emil J. Kiehne

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Dated: November 2, 2007

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Dated: November 15, 2007

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WE HEREBY CERTIFY that a true and correct copy of the foregoing pleading was sent via electronic mail to:

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this 20th day of November 2007

MODRALL, SPERLING, ROEHL, HARRIS  
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By: /s/ Emil J. Kiehne  
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